

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF **PENNSYLVANIA**

LINDA BUCK	:	CIVIL ACTION
	:	
v.	:	
	:	
PRIMEDIA, INC.	:	NO. 02-6919

ORDER

AND **NOW**, this 13 day of January, 2003, upon
consideration **of** the defendant's Motion to Stay the Complaint or,
in the Alternative, to Dismiss Plaintiff's Title VII Claim
(Docket No. 6) and the **plaintiff's** response thereto, IT IS HEREBY
ORDERED that the defendant's motion is DENIED.

In summary, the plaintiff's complaint contains a Title
VII claim of discrimination along with ERISA and Family and
Medical Leave Act ("FMLA") claims. The plaintiff has not
received a right to sue letter from the EEOC for her Title VII
claim. The plaintiff will **be** entitled to a letter by mid-
February 2003 because 180 days will have passed from when she
filed a complaint with the EEOC, and **she** requested a letter. See
42 U.S.C. § 2000e-5(f)(1); 29 C.F.R. § 1601.28(a)(1); Pl. Opp.
Ex. A, at ¶¶ 2-3.

The defendant seeks a stay of the complaint until the
plaintiff **receives** a right to sue letter. Alternatively, the
defendant asks for the Title VII count to be dismissed without
prejudice.

A stay is incidental to the court's inherent power **to** control its docket. The party **seeking** the stay must make out a **clear case of** hardship in being required to *go* forward. Landis v. North Am. Co., 299 U.S. 248, 254-55 (1936); Gold v. Johns-Manville Corp., 723 F.2d 1068, 1075-76 (3d Cir. 1983).

The defendant has not identified a hardship that it **will** suffer from allowing the case to proceed. The plaintiff's **ERISA** and FMLA claims are based on the plaintiff's termination from the defendant's employment. This termination also **gives** rise **to** the plaintiff's Title VII claim. The defendant **suffers** no hardship if discovery moves forward because the discovery for all of the plaintiff's claims will cover the same facts.

With respect **to** dismissal of the Title VII claim, the **failure** of the **plaintiff** to obtain a right **to sue** letter does not deprive the Court of subject matter jurisdiction. Because the defendant has not invoked any other basis for dismissing the Title VII claim, **this** part **of** the defendant's motion is also denied. See Anielino v. New York Times Co., 200 F.3d 73, 87, (3d Cir. 1999).

For the foregoing reasons, the defendant's motion is denied.

BY THE COURT:


MARY A. McLAUGHLIN, J.

for 2/14/03
D. Permatte usg
J. Wetchler, '06g
D. Diaz